

to public health officials, that is what would occur.

We need to put the wheels in motion, so when and if that avian flu hits, we are prepared. If we are prepared, we diminish the economic impact dramatically. If we do not act and that avian flu pandemic comes to our shores, we in this Senate will be rightly blamed for failing to do our best to protect the American people, given what our scientists and public health officials say today. That finger will be pointing straight at the Congress if we do not act. The good news is we will act. We plan to act in the bills that have come before the Senate in the next couple of days. We need a six-prong approach. We need to address communications, we need to address surveillance, we need to address the appropriate research, we need to address the whole issue of antiviral agents, the Tamiflu, we need to address vaccines. Right now we do not have any vaccines specific to a virus that would be transmitted human to human. That has to be created after we identify the virus. And the sixth component is what we call surge capacity, the stockpiling of antiviral agents and vaccines.

It may sound like a lot of moving parts, but between our researchers and public health officials, our entrepreneurs, our private sector, we do have the intellect, the ingenuity, and the knowledge to get the job done.

Our job as elected officials, my job as an elected official and my job as a physician is to see this thing through to make sure we are adequately prepared, and we can look our constituents in the eyes and say we have done everything possible to see that we are prepared for such a pandemic. Our economy, our country, and our lives may depend on whether we take action.

The President has laid out a comprehensive plan. It is our job to set aside the appropriate resources but also to give the appropriate incentives to tackle this looming threat.

I refer to our colleagues to put aside partisan differences, to hold together, to protect the American people. The flu virus does not know who is a Republican and does not know who is a Democrat. The people who suffer will know who did not get the job done.

We do not need to panic. What we do need is to prepare ourselves. Preparation means action, action in the Congress. The American people are counting on it. That is exactly what we will do over the next several days.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Texas.

Mr. CORNYN. I ask unanimous consent to speak for up to 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### USA PATRIOT ACT

Mr. CORNYN. Mr. President, unless the Congress acts, on December 31,

2005, 16 different provisions in the USA PATRIOT Act will expire.

Two days ago we had a vote to determine whether a minority in the Senate would allow a bipartisan majority the chance to have an up-or-down vote on the reauthorization of the PATRIOT Act. As everyone knows, that vote failed. Fifty-two senators voted to close off debate. There being a requirement of 60 votes to cut off debate, that threshold was not met so we did not reauthorize the PATRIOT Act.

So here we are with the clock ticking, with America's security at risk. We find ourselves in the incredible position of seeing certain ordinary law enforcement tools that are used everyday in State and Federal courts all across this country will, in about 2 weeks, no longer be available in the case of international terrorists or spies or cases involving the Foreign Intelligence Surveillance Act.

Perhaps the one provision of the PATRIOT Act that will expire that causes most concern is the so called wall. That, of course, is the term used to describe what previously—before October of 2001—was a wall that separated the sharing of information between our law enforcement personnel and our intelligence authorities. It is clear, as the 9/11 Commission demonstrated, that this wall made us less safe. It was not required by the Constitution. It was not required by any provisions passed by this Senate and signed by the President. It was simply a choice made by the Department of Justice to prevent the sharing of information.

We learned from the bombing of the World Trade Center in 1993 and its investigation, as well as from by the terrible events of September 11, the 9/11 Commission concluded this wall, which was not constitutionally required, prevented the sharing of information between law enforcement and intelligence authorities and this prohibition contributed to the terrible events on September 11.

It was imperative the Congress act as quickly and as carefully as possible to remove any impediments that were not otherwise mandated by the Constitution from investigating and preventing future terrorist attacks against this country.

Those who have opposed this up-or-down vote in the Senate with regard to the reauthorization of the PATRIOT Act are asking us to make a false choice. In other words, they are saying if the PATRIOT Act is reauthorized, somehow Americans' civil liberties will be in jeopardy. They are asking us—or telling us—that we have to choose between our national security and our civil liberties. That, to repeat, is a false choice.

The fact is, we can have a balanced reauthorization of the PATRIOT Act that will protect America from future terrorist attacks. We can continue to disrupt the terrorist cells both here at home and abroad that endanger us and protect our civil liberties at the same time.

This country was founded upon a belief in individual freedom and the protection of individuals against the overwhelming power of the Government. And we have, for more than 200 years, written into our laws—not to mention the Constitution—various protections to make sure our civil liberties and our individual freedoms are protected.

But the No. 1 responsibility of the Federal Government is to keep us safe. There is no other responsibility that comes anywhere close to that imperative. That is why I believe the PATRIOT Act must be reauthorized, and if we fail to act before these provisions expire on December 31, 2005, we will not have met our responsibilities. Indeed, we will have contributed to making this country much more dangerous than it would otherwise be.

Now, as we recall, after the terrible events of September 11, Congress, for 6 weeks, debated the original passage of the PATRIOT Act and, in a vote of 98 to 1, passed the PATRIOT Act. It provided that these 16 provisions would expire at the end of this year. The vote to enact this legislation was 98 to 1 in the Senate, after 6 weeks of debate. In the House, the vote was 365 to 66, again not quite as overwhelming as in the Senate, but it was a lopsided vote in favor of passing the PATRIOT Act. And it was signed into law on October 26, 2001.

Now, I have been surprised at how much misunderstanding there is surrounding the PATRIOT Act, how much outright mythology and disinformation there has been by those who are not just concerned about civil liberties, but those who are actually engaging in almost paranoid delusions about what it is that the PATRIOT Act provides in terms of the authorities to combat and to break up terrorist activities.

The fact is, anyone who has been involved with or even remotely acquainted with our criminal justice system knows and will recognize that the provisions of the PATRIOT Act merely extended to national security cases many of the tools that are used every day in courts all across the Nation and throughout the States. So this breathlessness, this sense of the existence of conspiracy theories, about the Federal Government deciding to suspend the civil liberties of the American people in pursuit of terrorists, is pure fantasy.

I want to talk about the provisions that are being discussed so I think at least those who are listening can understand there has been careful thought and careful negotiations between the House and the Senate and there has been an awful lot of effort put into trying to strike the right balance.

But what the critics are asking us to do is engage in a willing suspension of disbelief. It is almost unthinkable to me that here we are, some 4 years after the terrible events of September 11th, debating these common sense tools almost as if some have forgotten the lessons we learned and lessons we should remember for the rest of our lives.

I was not here in Washington on September 11. I was merely a candidate for the Senate and the attorney general of my State in Texas at the time. I was in Austin, Texas when those planes hit the World Trade Center. We all recoiled in shock and in horror at those terrible events. But I remember, since I have been here in Washington, the number of occasions where we have had warnings of intrusions into the airspace around this Capitol, where people here were running out of the Capitol, some in tears, out of fear that we were going to have another attack here at the Capitol.

As we know, but for the brave acts of some passengers on an airplane who caused that plane to crash in Pennsylvania, it could have been that plane was meant for the White House or the U.S. Capitol, which would have resulted in tremendous additional loss of human life.

So it is amazing to me—and I guess in some ways it is a sign of the times—that our memories are so short and that we need to be reminded about the seriousness of the threat that still remains. We need not let our guard down, instead we need to continue to do everything that is humanly possible to protect the American people against future terrorist attacks.

I know there are some who scoff at it and ridicule the threat, but I would ask them to go back and to read the newspaper accounts, to see the video replays of the terrible events of September 11, and then to reconsider. Those who fear that Government has turned into “big brother” and is simply invading our bedrooms and our libraries and our personal lives in ways that would shock all of us are engaging in, I think, a fantasy.

When you look at the facts—and I would suggest facts are stubborn things—we ought to look at the facts and the provisions that are being debated and then ask ourselves: Aren't these the kinds of tools we would want our law enforcement personnel to have to keep us safe?

I think the American people—when they understand, as they will before this debate has concluded, what is at stake here—would want us to act responsibly to extend and continue to provide these ordinary sorts of law enforcement tools to national security cases.

There is no doubt in my mind that a bipartisan majority of the Senate would pass this reauthorization of the PATRIOT Act if allowed to do so. But, indeed, what we are seeing is a filibuster by a willful minority that is blocking a bipartisan majority from even having the right to cast that vote. I recognize there are some people who have sincere beliefs that reauthorization of the PATRIOT Act is not the right thing to do. While I strenuously disagree with them—and I would welcome a chance to debate with them here on the Senate floor the wisdom of that decision—I respect their right to

hold that opinion. But I do not respect the minority when they block a bipartisan majority from having the chance to vote on tools that, if not extended, will leave this country vulnerable to attack.

Again, I am confident that if we had a vote a bipartisan majority of the Senate would see fit to reauthorize the PATRIOT Act and continue these important protections for the American people. But we find ourselves with the clock ticking, time running out, and America potentially endangered, if on December 31, 2005 these important provisions expire because we in the Senate did not act. A direct consequence of this action, or inaction, will endanger our country.

I would ask my colleagues: What has changed since that 98-to-1 vote in the Senate when, in October 2001, after 6 weeks of debate, the PATRIOT Act was passed? Are there reports of rampant abuses of the PATRIOT Act? No. Are there examples where Members can come to the floor and explain to us, that this is too much power for the Government to have, or that somehow we have an imbalance in the power given to the Government, and that we need to strike a right and better balance?

The fact is, Mr. President, all of the skeptics have is speculation, conspiracy theories, and outright fantasy when it comes to the potential of abuse under any of these provisions of the PATRIOT Act. I am convinced that the chairman of the Judiciary Committee in the Senate, Senator SPECTER, and the conferees in the House and Senate have done their very best given the nature of negotiations and compromise to strike the best balance between civil liberties and the protection of the American people. It would be a failure of responsibility and duty for us not to reauthorize the PATRIOT Act.

But I ask again, what has changed since September 11, 2001? What has changed since October of 2001 to now lead some of our colleagues to say that these provisions are unimportant, are not useful, or are no longer needed? Has the threat of international terrorism receded? Has it gone away?

I looked on the Internet before I came here for a listing, because I wanted to make sure I had all of them, of suspected al-Qaida terrorist attacks across the globe since September of 2001.

In December 2001, a man tried to detonate a shoe bomb on a flight from Paris to Miami. I believe his name is Richard Reid. There was an explosion in April of 2002 at an historic synagogue in Tunisia that left 21 dead, including 14 German tourists. In May of 2002, a car exploded outside a hotel in Karachi, Pakistan, killing 14, including 11 French citizens. In June 2002, a bomb exploded outside the American consulate in Karachi, Pakistan, killing 12 people. In October 2002, a boat crashed into an oil tanker off the Yemen coast killing a single individual. Then there

were the nightclub bombings in Bali, Indonesia, that killed 202 people, mostly Australian citizens, in October of 2002.

Then there was a suicide attack in Mombasa, Kenya, killing 16 in November of 2002. In May of 2003, suicide bombers killed 34, including 8 Americans at housing compounds for westerners in Riyadh, Saudi Arabia. In May 2003, 4 bombs killed 33 people, targeting Jewish, Spanish, and Belgian sites in Casablanca, Morocco. In August 2003, suicide car bombers killed 12 people and injured 150 more at the Marriott Hotel in Jakarta, Indonesia. In November 2003, explosions rocked a Riyadh, Saudi Arabia, housing compound killing 17. In November 2003, suicide car bombers simultaneously attacked two synagogues in Istanbul, killing 25 and injuring hundreds more. In November 2003, truck bombs detonated at a London bank and British consulate in Istanbul, Turkey, killed 26. In March 2004, 10 bombs on 4 trains exploded almost simultaneously during the morning rush hour in Madrid, Spain, killing 202 and injuring more than 1,400 people. In May 2004, terrorists attacked a Saudi oil company office in Khobar, Saudi Arabia, killing 22.

In June 2004, terrorists kidnaped and executed American Paul Johnson, Jr., in Riyadh, Saudi Arabia. Then in September 2004, car bombs outside the Australian Embassy in Jakarta, Indonesia, killed 9. In December 2004, terrorists entered the U.S. consulate in Jeddah, Saudi Arabia, killing 9. In July 2005, bombs exploded on 3 trains and a bus in London, England, killing 52. In October 2005, 22 were killed by 3 suicide bombs, again in Bali, Indonesia. Then most recently in November 2005, 57 were killed at 3 American hotels in Amman, Jordan, including at a wedding party.

Mr. President, I go through this list not to just bore my listeners but rather to recount in horrific detail the threat that still exists to America and American citizens and people all around the world by international terrorists. These are examples of what could happen on our own soil again if we let our guard down as we did before September 11.

Just to remind my colleagues what we have been able to do because we have been on our guard, because we have the PATRIOT Act, because we have equipped our law enforcement and intelligence personnel with the tools necessary to identify and investigate and disrupt terrorist activities, because we have been on the offensive in Afghanistan and Iraq disrupting the ability of terrorists to train, recruit, and then export their terrorist activities, because we have done all of those things, America has not sustained another terrorist attack on our own soil since September 11, 2001. But it is far from certain that it will not happen again.

Some have said it is a matter of when, not if, America will be hit again.

But, thank goodness, because of the diligent efforts of men and women in our law enforcement agencies, in our intelligence agencies, the men and women in our military, and so many other people working together diligently, we have protected Americans on our own soil. There have been at least 10 serious al-Qaida plots disrupted, including 3 al-Qaida plots to attack inside the United States since September 11.

In mid 2002, the United States disrupted a plot to attack targets on the west coast of the United States using hijacked airplanes. The plotters included at least one major operational planner involved in the events of September 11. In mid 2003, the United States and a partner disrupted a plot to attack targets on the east coast of the United States using hijacked commercial airplanes.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. CORNYN. I ask unanimous consent for an additional 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Then there is the Jose Padilla plot in May 2002. The United States disrupted a plot that involved blowing up an apartment building in the United States using a dirty bomb or a radiation dispersal device. In mid 2004, the United States and our partners disrupted a plot that involved urban targets in the United Kingdom. These plots involved using explosives against a variety of sites. Then there was a plot in Karachi, a plot at Heathrow Airport in London, another UK plot in 2004, another Arabian Gulf shipping plot, one in the Straits of Hormuz in 2002, and a tourist site targeted by al-Qaida. In 2003 there have been at least 10 disrupted terrorist attacks as a result of the concerted efforts of our law enforcement and intelligence personnel, at least 3 on American soil since September 2001.

I ask my colleagues who are blocking the vote on the renewal and reauthorization of the PATRIOT Act: What could they possibly be thinking to believe that we ought to voluntarily relinquish the tools that have in part made it possible to keep us safe and to protect Americans from these terrorist attacks?

I know, Mr. President, there are others in the Chamber who want to speak on this or related issues. I want to close on one last red herring that has been raised.

As the New York Times reported, the President of the United States has authorized, after counseling with the Department of Justice and various legal authorities, as well as consulting with Congress on up to 12 occasions, the use of intercepted messages from the National Security Agency as part of our ongoing counterterrorism efforts. The New York Times suggested that this was a secret way to threaten the civil liberties of Americans. The fact is, as is now being revealed, Congress was

consulted at least 12 times since September 11th about the President's authorization of these interceptions of communications, interceptions which were not solely within the United States but were from known links to international terrorism in the United States and known links with international terrorism overseas.

It is perhaps not a coincidence that just before the vote on cloture on the reauthorization of the PATRIOT Act, the New York Times released this story. Indeed, at least two Senators—I heard with my own ears—cited this article as a reason why they voted to not allow a bipartisan majority to reauthorize the PATRIOT Act. As it turns out, the author of this article had turned in a book to his publisher 3 months ago. The paper failed to reveal that the story was tied to a book release and sale by the author James Risen. The title of the book is "State of War, the Secret History of the CIA and the Bush Administration." It is about to be published by the Free Press in the coming weeks.

It is a crying shame that America's safety is endangered by the potential expiration of the PATRIOT Act in part because a newspaper has seen fit to release, on the night before the vote on the reauthorization of the Act, and as part of a marketing campaign for selling the book, something that is blatantly misrepresentative of the facts and appears to be an attempt to strike terror or perhaps paranoia into Senators and others out of some unrealistic and inaccurate concern for invasion of civil liberties.

It is appropriate that Congress have hearings to look into this, but the fact is, the President and his administration have briefed high ranking Members of Congress on 12 occasions since this so-called secret program of intercepting communications between known terrorist contacts in the United States and overseas occurred.

When I came to Washington to serve in the Senate almost 3 years ago, someone jokingly referred to it as a logic-free zone where perception is reality. We all got a good laugh out of that. But the hysteria over the USA PATRIOT Act and the fact that people have, in too many instances, not focused on the hard-fought attempts to balance our security with civil liberty concerns by hammering out thoughtful and useful provisions is a disservice to the American people. It is not a typical policy disagreement that we sometimes have about taxes or some other issue. This is one that has the grave potential of endangering American lives because we know the terrorist threat exists. This threat continues to this day.

September 11, while it was 4 years ago, is not an isolated event, as the listing I provided details. Terrorists will, if we let our guard down, hit us again. Then I ask: Where will the blame lie? If we have failed to do everything within our power to protect

the American people, we will have failed to discharge our duty in this body.

I hope our colleagues who are blocking a bipartisan majority from casting a vote to reauthorize the PATRIOT Act which will prevent the expiration of these 16 provisions will reconsider their decision. It is unthinkable to me that anyone would allow these provisions to expire. I realize there are differences of opinion. I am happy to have this debate. I understand that people have conscientiously held opinions that are different than mine about the importance of this Act, but to block a bipartisan majority from having the chance to vote is incredible.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. CORNYN. I will.

Mr. SESSIONS. I thank Senator CORNYN for his discussion of this important issue. If the people of America were to hear what he said and consider those issues thoughtfully, their fears would be greatly relieved. I am convinced there is nothing in this legislation that in any way jeopardizes the liberties we have.

The Senator from Texas served as attorney general for the State of Texas. He served on the Supreme Court of the State of Texas. He brings good judgment and legal understanding to the Senate. I urge my colleagues to listen to him.

Senator SPECTER, chairman of the Judiciary Committee and certainly a person who has been a champion of civil liberties all his career, has said that the bill we passed in this body by unanimous consent which went to conference in order to work out differences with the House, came back with 80 percent the provisions contained in the Senate bill untouched, and very few changes in favor of the House version.

I ask the Senator from Texas, the bill we passed here by unanimous consent, is that not the same bill he and I worked on in the Judiciary Committee and that came out of the committee unanimously by an 18-to-0 vote after full discussion about those issues?

Mr. CORNYN. The Senator from Alabama is absolutely correct. He serves with great distinction on the Senate Judiciary Committee, as does the current occupant of the Chair. We all know that it is not the most cohesive committee in the Senate. As a matter of fact, we have some pretty serious disagreements about important policy issues. But on the PATRIOT Act, under Senator SPECTER's guidance, with the ranking member, Senator LEAHY, we were able to reach unanimity and pass the PATRIOT Act out of the Judiciary Committee. That would not happen, given the legal minds and the great advocates we have on the Judiciary Committee, if it were not a good bill. To now suggest, as some have, that this has not been well thought through, that it is not carefully done, flies in the face of the facts.

If I may, Mr. President, through the Chair, I ask my friend from Alabama,

who has been a distinguished U.S. attorney, served as attorney general of his State before coming to the Senate, and has a lot of experience in law enforcement, are the provisions of the PATRIOT Act that are being debated involving wiretaps and production of business records and delayed notice search warrants, are these the sort of ordinary tools that are available to prosecutors in State and Federal courts in regular, ordinary, vanilla criminal cases?

Mr. SESSIONS. I thank the Senator from Texas. He is exactly correct. As a former attorney general of Texas, he knows that every county attorney in America can go to a county judge and issue a subpoena for bank records, for medical records, for telephone toll records, for motel records, for library records, and for bookstore records.

That is done every day and the standard is simply whether those records are relevant to an investigation that the Attorney General or district attorney in any county in America is conducting. That is the way the system works. People act as if issuance of a subpoena for somebody's records is a violation of a constitutional rights. That is beyond my understanding.

So I certainly agree. In fact, with regard to a group of records, the power of the FBI to investigate terrorists, in some ways, is far less than that of a county attorney. A 215 order includes health records, library records, bookstore records—I hate to laugh, but—for which you have to go to a court and get approval before they are issued. The local district attorney issue this type of order if he is investigating somebody for failure to pay county taxes.

I want to ask the Senator about this. One distinguished Senator yesterday on the floor of the Senate declared that an FBI agent could write up a warrant and go out to search your house. With regard to the two categories of records I have mentioned, I add for the RECORD that these are records not in the possession of a potential defendant or terrorist; these are records in the possession of a bank or a telephone company; they are not personal records. But with regards to personal records where the district attorneys in every county and any U.S. Attorney has to get a search warrant and has to have it approved by a judge, and in the case of the FBI, a Federal judge, they have to submit facts under oath to justify the search, and those searches go to a person's home, their automobile, or areas in which they have dominion and control. My question to the Senator is whether he is aware of anything in this legislation that in any way would undermine the standard and burden on investigators before they get a search warrant of somebody's private property?

Mr. CORNYN. Mr. President, I say to the Senator from Alabama he is precisely correct. One of the things that has been carefully taken into consideration in this legislation is to make sure whoever the individual is or

whoever's rights are at issue, that there is an opportunity to go to a judge—in this case, the Foreign Intelligence Surveillance Court, a specialized court with jurisdiction over national security cases—and to ask an impartial judge to intervene.

But some of our colleagues, it seems, have these fantasies about rogue law enforcement personnel with nothing better to do than running roughshod over the rights of American citizens. These are serious professionals. I know my colleague from Alabama, being a former U.S. attorney, has worked closely with the FBI and other Federal law enforcement officials. I ask him—and then I will certainly yield the floor to him for any other remarks he cares to make—is there any basis to this idea that Federal law enforcement agencies, such as the FBI and the intelligence agencies, have nothing better to do or have so little disregard for our laws and Constitution that they look for opportunities to trample on the rights of innocent American citizens?

Mr. SESSIONS. I thank the Senator. That is such a good question. I worked very closely on a daily basis with FBI agents for 15 years as a Federal prosecutor. Some of those agents remain good friends of mine. They are people of high integrity and discipline. They follow the rules. Sometimes they shake their heads in wonderment at the regulations we place on them as they are out trying to protect America. But they comply day after day with whatever rule it is. In fact, I guess some people may have thought when we created a wall between the CIA and the FBI, that if information were important, agents would not pay much attention to that wall, and would share the information anyway. Surely the CIA would tell the FBI if they have information that a dangerous cell may be operating in the U.S.; surely they would tell them. But we prohibited it. There was a wall and this legislation tore it down. Before this wall was torn down, they did not share any information, regardless of how important it may have been.

I was on a show with a distinguished Member of this Senate who made the comment that the people of his State didn't want the FBI patrolling near their homes and searching their houses and getting delayed warrants and staying in their houses and all these other things. I talked to the Attorney General Gonzales today. He said two-tenths of 1 percent—2 out of 1,000 warrants issued in this country, are delayed warrants. There probably hasn't been one issued in his State since the act was passed 4 years ago. The last thing the FBI would want to do is violate the law, risk their careers, or waste their resources prowling into the houses of Americans. To get a delayed notice warrant or any warrant of this kind, they have to go to the court in advance. Then they have to have additional proof if they want to delay the notice to the person whose residence has been searched.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I may have 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I thank Senator CORNYN from Texas for his steadfast work on this issue. He is an extremely hard-working Senator. He gets these facts right. He is an extremely skilled lawyer and has a great legal mind. I hope the people will listen to his remarks.

We have gone through this bill. This bill was carefully drafted the first time we voted on it. It came out of the Senate 4 years ago with only one "no" vote. We have had 4 years of experience with it. It is going to expire the end of this calendar year. We passed our version of reauthorization by unanimous consent in this body. Our Senate Judiciary Committee, which has some of the most civil libertarian lawyers in the Senate—in the country, for that matter—passed it out unanimously. I am shocked, surprised, and utterly disappointed that we went to conference—where we maintained position after position on our bill and the House conceded time and time again on their bill, to the extent that about 80 percent of the differing provisions were decided in favor of the Senate—and now have this unbelievable filibuster that blocked a bill which had so much bipartisan support, from coming up and being considered and given a vote.

I thank the Chair. I see the distinguished ranking Member of the Senate Armed Services Committee on the floor, Senator LEVIN. I am delighted to yield to him at this time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Chair and my friend from Alabama.

One quick comment on the PATRIOT Act. Of course, everybody in this body wants to renew the PATRIOT Act. That is not the issue. The issue is the contents of that act and whether this body ought to have an opportunity to debate some of the differences between the version that came back to us from conference and the one that left the Senate. There are significant differences.

There is a bipartisan group that opposes the PATRIOT Act in its current form. We all want to extend that act so there is no gap. Nobody wants a gap in coverage. Everybody agrees it should be extended. The question is, should it be extended for a short period of time to give those of us who have questions and doubts about some of the provisions that came back from conference that were not in the Senate version an opportunity to debate and hopefully change some of those versions.

Mr. SESSIONS. Mr. President, will the Senator yield just 1 second on that point?

Mr. LEVIN. Sure.

Mr. SESSIONS. I urge him to examine the legislation and to examine the

changes that are made. I know some have said they are significant. With the Senator's legal skills and ability to analyze, I think he will find they are not nearly as significant as some say. As a matter of fact, most are very small. I believe he will feel comfortable in the end once again voting for this legislation.

I thank the Chair and yield the floor.

Mr. LEVIN. Mr. President, I thank my friend from Alabama. I have, indeed, studied the version that has come back from conference. The differences are significant, indeed. They are very significant, so much so that some of the more conservative Members of this body have joined in a decision that we should have an opportunity to debate the PATRIOT Act conference report before it is enacted. We all want to extend it to give us that opportunity. But this is not a Democratic or Republican opposition; it is a bipartisan group of Senators who have studied the conference report and have significant differences with it, and I am one of those Senators.

#### DEPARTMENT OF DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. LEVIN. Mr. President, I wish to talk about a different bill, a bill we thought was finally put to bed yesterday. When we say "put to bed," what we conferees mean is the conference is over and that all of the members of the conference have signed the conference sheets, the signature sheets which signify that document that is attached to those sheets is the final version and that then will be presented to both Houses for their consideration.

Senator WARNER came to the Chamber last night to express his dismay with what we understand now has happened in the House, and that is that the House leadership is apparently toying with the idea, considering the possibility of trying to insert in that conference report a totally unrelated bill that is not part of either the House or the Senate Defense authorization bill, which is totally unrelated to the subject matter of the Defense Authorization Act.

To me, it is not important what the substance of the bill is that the House Republican leadership wants to attach. The principle is important. The principle is one of the fundamental principles under which we operate in this body and in this Congress, and that is, once a conference report is agreed to, once those signature sheets have been attached, nothing can just be inserted, unless, of course, the conference report is rejected or the report is referred back to conference.

There are rules that the House gets the conference report first, and that allows that body to return a conference report for further consideration. But what is happening here is not that there was going to be a conference report taken up in the House with a mo-

tion to refer back to conference to consider other material. Here, apparently, from what we understand, the House leadership was attempting to find some way to add significant legislation to a conference report on which the signature sheet had already been signed by all of us.

Senator WARNER came to the Chamber last night to express his dismay with this process. As always, Senator WARNER is extraordinarily honorable. For him, it is not important what the subject matter of this added legislation is. It is the principle involved. It is the process involved. We cannot possibly operate under a procedure where after a conference is over and the signature sheets are signed that then there is an effort made without, I guess, the body reopening the conference by sending it back to conference for reconsideration but just simply looking for a mechanism to add legislation to a conference report which had already been signed.

Senator WARNER said something last night that I concur in 1,000 percent. In fact, everything he said last night I concur in 1,000 percent because he is a Senate man. He is an institution man. He loves this institution. And the idea that we could have a process where a conference report is signed and then, somehow or other, through some mysterious mechanism or means, additional legislation is added to it without that conference being reorganized and the House, the first body that receives this conference report, referring it back to conference, is a totally unacceptable process.

The chairman of our committee, Senator WARNER, last night said he was not going to accept this process. He would filibuster his own bill if it contained material we had not considered and was now showing up in a conference report. And I would join him in that filibuster. He would exercise the rules of this body to ask the Chair to rule that there is out-of-scope material in this conference report, and I would join him in asking the Chair to make such a ruling.

This is separate and apart from whether he or I agree with the material which was proposed to be added. By the way, for whatever relevance it has, I think probably both of us would be inclined to support the material which was intended to be added if it ever came to the floor in a proper way. I don't want to commit myself to that position because I haven't seen the actual material proposed to be added, but what I know of the subject matter, it would be the type of change in our law which I probably would support and, without speaking for Senator WARNER, I think he is probably inclined to support, too. That is not the issue. We can't treat our colleagues that way. This is a controversial matter which is proposed to be added. There is a very strong debate over the subject matter.

Regardless of what our position is, as the chairman and ranking member of this committee, we cannot bring back

from the conference a document which contains material which had never been discussed in conference, never the subject of debate in either the House or the Senate, was not in the House or the Senate bill, and is totally nongermane to the subject matter of the conference report.

We all know there are items added to conference reports that were not in either bill. That happens. But under our rule, the only way it now happens is if it is material to which everybody agrees. It cannot be material which is not in agreement by the Members of the two bodies. We cannot possibly, as a matter of principle, have a process where a conference report comes back containing material not germane, not relevant, not material to the conference, not the subject of either bill that passed either House, and which is added after the signature sheets have been signed.

I wanted to come to the Chamber and say what has happened because we heard this effort was being considered—just being considered—by the House Republican leadership. Senator WARNER and I asked our staff to go over to the House and retrieve our signature sheets.

Mr. REID. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to yield.

Mr. REID. Through the Chair to the distinguished ranking member of the Armed Services Committee, I already gave some remarks on the Senate floor last night about my admiration for the chairman of the Armed Services Committee. My admiration of the senior Senator from Virginia is a volume. I think JOHN WARNER is what a Senator is all about, and I said that last night.

I say to my friend from Michigan, I have served in legislative bodies a long time. I have been in public service for more than 40 years. And my respect for the ranking member of the Armed Services Committee is equal to that of the senior Senator from Virginia. There is no better Senator than CARL LEVIN from Michigan—not today or ever. He is one of the best ever.

The working relationship between Senator WARNER and Senator LEVIN is what the Senate should be. But I want to say that what is going on in this Congress is absolutely untoward. We have a Defense appropriations bill that will fund the military, some \$450 billion, that is being held up by sticking onto that bill drilling in Alaska, drilling oil wells in Alaska.

There is a place for that legislation, but it should not hold up this bill, as it has been. As Lord Acton said, "Power tends to corrupt, and absolute power tends to corrupt absolutely." That is what we have a study of in here: The absolute power of the Republicans controlling the White House, the House, and the Senate is leading to a corrupt Congress.

To think that the rules mean nothing, throw them aside, let us change them today, we are going to put something on the Defense appropriations